

Application No. 10/607,887
Reply to Office Action mailed May 18, 2005

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed May 18, 2005 (the "Office Action"). Claims 9-17 were pending. Claim 15 is cancelled, and claims 11 and 16 are amended. Claims 9-14, 16 and 17 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. PRIOR ART REJECTIONS

A. Rejections Under 35 U.S.C. §102

The Office Action rejects claims 9 and 10 under 35 U.S.C. § 102(a) as being unpatentable over United States Patent Application Publication No. US 2004-0151221 A1 to Yamamoto, *et al.*, ("*Yamamoto*").

Application No. 10/607,887
Reply to Office Action mailed May 18, 2005

With respect to this rejection, Applicants note that the filing date in the United States of Applicants' application is June 27, 2003. Applicants further note that the publication date of *Yamamoto* is August 5, 2004. It is therefore submitted that *Yamamoto* does not qualify as prior art under Section 102(n), which requires the cited reference to be published *before* the invention by Applicants, which is presumed to be at least as early as the application filing date. Accordingly, *Yamamoto* cannot be used to anticipate the claims of the present invention. Applicants therefore submit that claims 9 and 10, together with claims 11-14, are allowable over the cited art and respectfully request that the Section 102 rejection in view of *Yamamoto* be withdrawn.

B. Rejections Under 35 U.S.C. § 103

The Office Action rejects claim 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,115,441 to Kopf, *et al.* ("*Kopf*"). With respect to this rejection, Applicants note that independent claim 15 has been cancelled and its subject matter incorporated into formerly dependent claim 16. As such, the present rejection is now moot in light of this amendment. Removal of the rejection to claim 15 is therefore respectfully solicited.

II. Allowable Subject Matter

The Office Action objects to claims 11-14 and 16 as being dependent upon a rejected base claim but states that these claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. With respect to claims 11 and 16, Applicants note that these claims have been rewritten to include all limitations

Application No. 10/607,887
Reply to Office Action mailed May 18, 2005

of their base claims and any intervening claims. As such, independent claims 11 and 16 are allowable as rewritten and Applicants respectfully solicit their allowance. With respect to claims 12-14, Applicants note that these claims are allowable as being dependent on claim 1, which is allowable as described above. Removal of the objection and allowance of these claims is therefore respectfully requested.

Applicants submit the following comments regarding the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. Applicants agree with the Examiner that the claimed invention of claims 11-14 and 16 is patentable over prior art, but respectfully disagree with the Examiner's statement of reasons for allowance as set forth in the Office Action. Applicants submit that it is the claim as a whole, rather than any particular limitation, that makes each of these claims allowable. No single limitation should be construed as the reason for allowance of a claim because it is each of the elements of the claim that makes it allowable. Therefore, Applicants do not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claims allowable and does not make any admission or concession concerning the Examiner's statement in the Office Action.

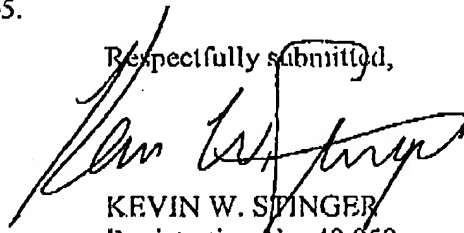
Application No. 10/607,887
Reply to Office Action mailed May 18, 2005

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 18th day of October, 2005.

Respectfully submitted,



KEVIN W. SPINGER
Registration No. 48,959
Attorney for Applicant
Customer No. 022913
Telephone: (801) 533-9800

KWS:blh

W:\15436440.14\TA\T0000001504V001.doc